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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/967,055	09/28/2001	Jerald C. Seelig	619.438 ACC.UA-Heads	4911
21707	7590	01/13/2004	EXAMINER	
IAN F. BURNS & ASSOCIATES 1575 DELUCCHI LANE, SUITE 222 RENO, NV 89502			WHITE, CARMEN D	
			ART UNIT	PAPER NUMBER
			3714	17
DATE MAILED: 01/13/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/967,055	SEELIG ET AL.
Examiner	Art Unit	
Carmen D. White	3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 14 October 2003.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-61 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 13-30 and 40-61 is/are allowed.
- 6) Claim(s) 1-12 and 31-39 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. §§ 119 and 120

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All b) Some \* c) None of:  
1. Certified copies of the priority documents have been received.  
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) The translation of the foreign language provisional application has been received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                             | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 5-7, 12, 31, 35-36 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Orr** (GB2169737A) in view of **Baerlocher** et al (6,315,664).

Regarding claims 1, 5-7, 12, 31, 35-36 and 39, Orr and Baerlocher teach all the limitations of the claims as discussed in the previous office action, paper #14 (09/11/03), which is incorporated herein by reference.

Claims 2-4, 8-11, 32-34 and 37-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Orr** (GB2169737A) in view of **Baerlocher** et al (6,315,664), further in view of **Gutknecht** (5,154,420).

Regarding claims 2-4, 8-11, 32-34 and 37-38, Orr, Baerlocher and Gutknecht teach all the limitations of the claims as discussed in the previous office action, paper #14 (09/11/03), which is incorporated herein by reference.

### ***Allowable Subject Matter***

Claims 13-30 and 40-61 are allowed.

Reasons for allowance was recited in the last office action, paper #14 (09/11/03), which is incorporated herein by reference.

***Examiner's Response to Applicant's Remarks***

The examiner appreciates the interview conducted with Applicants and Applicant's representatives on October 14, 2003. The examiner has reconsidered the instant claim limitations discussed in the interview and reiterated in Applicant's current response (paper #15).

Applicant argues that Orr does not teach ***two possible symbols*** as the instant claimed invention. However, the examiner disagrees. Orr teaches the use of two cards, which the examiner has interpreted as two symbols. Further, Applicant argues that Orr does not teach a bonus game where ***each outcome is determined by the symbol that is displayed***. Again, the examiner disagrees with Applicant. The outcome of the Orr gaming system is determined by the symbol that is displayed. Depending on the color of the symbol displayed the outcome is varied. Finally, Applicant argues that Baerlocher does not entitle a player to a predefined payout ***depending on a number of similar outcomes displayed***. The examiner disagrees. Baerlocher teaches that depending on the player choosing symbols with the binary outcomes of success or failure, the player receives a payout. For instance, the player is entitled to a predefined payout of the accumulation of credits depending on a number of chosen similar success indicator outcomes displayed (col. 3, lines 1-7).

The claim language of instant claims 1-12 and 21-39 is quite broad. The examiner understands that Applicant's disclosed invention is that of a coin toss, heads or tails, game. However, the instant claim language of the independent claims is not specific to this type of game. The examiner asserts, as the claim language is currently

written, the instant claimed invention of the currently rejected claims is not distinct from that of Orr and Baerlocher

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

***USPTO Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carmen D. White whose telephone number is 703-308-5275. The examiner can normally be reached on Monday through Friday, 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Hughes can be reached on 703-308-1806. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1078.



cdw



S. THOMAS HUGHES  
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